sufficiency of this and cites other definitions that improve upon it, but then, in place of making another definition under which the present set of facts might be brought, the court goes straight to the heart of the matter by saying that "The law as other big institutions of modern society, is advancing. It has broadened in its conception of human rights, including property rights." It concludes that we have here a property right of value and that the value has been assessed by the lower court at the right amount. By thus turning from the rule of law to the simple question of the right of the party claimant the court arrives at a correct conclusion by a perfectly simple process avoiding all the pitfalls of the logical syllogism with its possible errors arising from a divided middle and incidentally also avoids the enunciation of another definition of goodwill with which to trouble us.

INJUNCTION-SALE OF BUSINESS—AGREEMENT NOT TO COMPETE.—D sold his business and good will to A and, as part of the consideration, agreed that he would not "directly or indirectly enter into business in Sioux Rapids, Iowa, in competition with" A for five years. A sold the business and good will to P to whom A assigned the "contract" with D. D re-entered business in competition with P. Bill by P to restrain D from entering into competition with him in violation of the agreement. *Held*: Injunction should be granted. *Sickles et al.* v. *Lauman,* (Iowa, 1918) 169 N. W. 670.

The defendant contended that the contract gave to A a mere personal right which could not be assigned to P, the second purchaser of the business. This argument had no weight with the court; for the question had been already settled in Iowa. *Hodge, Elliot* & *Co.* v. *Lowe,* 47 Iowa 137. This is in accord with the views of nearly all courts. As was well said in *Francisco* v. *Smith,* 143 N. Y. 488, "such an agreement is a valuable right in connection with the business it is designed to protect and going with the business it may be assigned and the assignee may enforce it just as the assignor could have enforced it, if he had retained the business. The agreement could have no independent existence or vitality aside from the business." Even if the covenant or agreement had not been assigned, the assignee (purchaser) of the business would be entitled to enforce it. *American Ice Co.* v. *Merkel,* v09 App. Div. 93; *Fleckinstein* v. *Fleckinstein,* (N. J. Ch.) 53 Atl. 1043. Conveyancing forms do not permit a covenant to be made with a business, but such is the intent of the parties. The purpose is to give additional value to the business sold; and as the covenant is designed primarily to protect the business sold it ought to 'run' with the business. In fact it seems preferable to treat such a covenant as an equitable servitude.

LIBEL,—PRIVILEGE, EXCESS, PUBLICATION TO A CLERK.—Under an agreement between defendants and M, the latter selected plaintiff, Roff, as an arbitrator. Defendants then wrote M, "We decline to accept a man with the German name of Roff as arbitrator." The letter was sent in the usual way by post to M, where it was opened by one of M's clerks, who placed it upon the desk of another clerk, who gave it to M. Plaintiff was not a German at all, and on learning of the facts, sued the defendants for libel, in the publication to M.

Defendants pleaded privilege, and the jury found there was no *malice* in the publication to M. The trial court ruled that "the publication to the clerks was not privileged, even if the writing to" M was, and judgment was entered for the plaintiff. On appeal by defendants, *held*: the publication to M was *prima facie* privileged, and this privilege, in the absence of malice, is not lost by the publications to the clerks. *Roff* v. *British and French Chemical Co.*, (Court of Appeal, K. B. D., Nov. 1918), 87 L. J. R. (K. B.), 996.

SWINFEN EADY, M. R., held that since both defendants and M had a common interest in the selection of an arbitrator, the occasion was *prima facie* privileged, unless there was malice to rebut the *prima facie* protection, and the jury had negatived any malice. The other judges agreed. It was further argued that the mere fact that a defamatory communication, *prima facie* privileged, is communicated to a third person having no interest, is in excess of the privilege and destroys it. But the court held otherwise, relying on the cases of *Pullman* v. *Hill*, (1891), 1 Q. B. 524; *Edmondson* v. *Birch*, (1907), 1 K. B. 371, and others reviewed in note in 17 MICH. L. REV. 187.

All the judges held that the action was not for a publication to the clerks, but only to M, and hence the trial justice's instructions that the publication to the clerks was not privileged, was not applicable and was misleading. They seemed to think that a separate action might possibly have been maintained for the publication to the clerks. This matter is covered in the note in the MICHIGAN LAW REVIEW above referred to.

PUBLIC UTILITIES OPERATING AFTER EXPIRATION OF FRANCHISE—ORDINANCE FIXING RATES.—A street railway company furnished the exclusive service to defendant city. On 150 miles of the lines the franchises had expired, 65 miles were under a "three-cent franchise," and 55 miles of disconnected sections of tracks in outlying streets were under "five-cent franchises," which had not yet expired. The city on August 9, 1918, passed an ordinance in terms amendable or repealable at any time, limiting fares that might be charged on franchise lines to franchise rates, and on non-franchise lines to a maximum of five cents. The ordinance expressly provided that it should not be construed to impair the obligation of any valid contract. The Supreme Court of the United States found the enforcement of the ordinance on the averments of the bill, which for the purposes of the hearing must be taken to be true, would result in a deficit to the company. The rates fixed did not provide a reasonable return, and therefore deny to the company due process of law. The District Court should have granted a temporary injunction and proceeded to a hearing and determination of the case. *Detroit United Railway* v. *City of Detroit*, United States Supreme Court, No. 666, January 13, 1919.

Little need be added to what was said on the *Denver Water Case*, 246 U. S. 178, in 16 MICH. L. REV. 438. The case simply follows that case, and from this three justices dissent, as they did in that case. The only difference between the two seems to be that in the Detroit case the company has certain unexpired franchises, so that the city is not free to operate a complete system of its own by driving the company from the streets, and the company is on the non-franchise streets only by sufferance. The court has constructed a